

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA

v.

RODNEY HOWARD

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Case No. 5:19-cr-00086-gwc-3

**MOTION ON BEHALF OF RODNEY HOWARD FOR DOWNWARD
DEPARTURES AND A VARIANCE TO A BELOW-GUIDELINE SENTENCE**

Rodney Howard, through counsel, moves for (i) a downward departure to Criminal History Category II and (ii) a variance from the resulting guideline range to a below-guideline sentence that does not include a term of imprisonment beyond time served. Pursuant to 21 U.S.C. § 841(b)(1)(C), the sentence to be imposed on Mr. Howard must include a term of supervised release of at least three years.

A two-level downward departure in Mr. Howard's criminal history category is warranted pursuant to USSG § 4A1.3(b)(1) because four of his seven criminal history points result from same-day robbery convictions arising out of contemporaneous offenses that occurred almost thirty (30) years ago, when he was only 20 years old. It is respectfully submitted that application of these four points by operation of the 15-year lookback period would substantially over-represent the seriousness of Mr. Howard's criminal history and the likelihood that he will commit other crimes.

A variance to a below-guideline sentence is warranted because a term of imprisonment beyond time served would constitute a sentence greater than necessary to accomplish the statutory purposes sentencing. 18 U.S.C. 3553(a)(2).

Each of these requests for relief is further supported in Mr. Howard's accompanying Sentencing Memorandum.

Dated: December 11, 2020

/s/ Gregory S. Mertz

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